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APPEARANCES

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Jessica Aber, Esq.

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Elham Peirson, Esq.

Assistant United States Attorney

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For the United States

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Carolyn Grady, Esq.

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Assistant Public Defender

for the defendant

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The Defendant

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In his/her own proper person

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1 THE CLERK: Case number 3:17 CR 49.

2 United States versus Patrick Falte.

3 Ms Jessica Aber and Ms Elham Peirson represent the
4 United States.

5 Ms Carolyn Grady represents the defendant.

6 Are counsel ready to proceed?

7 MS ABER: United is ready.

8 MS GRADY: Defense is ready.

9 THE COURT: All right.

10 Good morning to Ms Peirson and Ms Aber and Ms Grady
11 and Mr. Falte.

12 Is it Falte or Falte?

13 THE DEFENDANT: Falte.

14 THE COURT: Falte. All right. Well, good morning,
15 sir.

16 All right. Ms Grady, have you and Mr. Falte had a
17 chance to review the presentence report and to discuss it?

18 MS GRADY: Yes, we have, Judge.

19 THE COURT: And do you have any unresolved objections
20 to the report?

21 MS GRADY: No, we do not.

22 THE COURT: All right.

23 And the government have any objections?

24 MS ABER: No, Your Honor.

25 THE COURT: All right.

1 So here is how the presentence report works out with
2 the guidelines.

3 The base offense level is 42 points, which is
4 computed as follows: Thirty-two points for the basic
5 offense, plus four four because the victim was under 12
6 years old, plus two because there was sexual contact, plus
7 two because there was distribution of the photographs or
8 images, plus two because a computer was used.

9 All right. That is 42.

10 Then there is a five-point enhancement, which really
11 is impossible to explain in words, but it is due to the
12 nature of the crime in this case, and under the
13 guidelines, leading to a total adjusted offense level of
14 47. Mr. Falte gets three points off for acceptance of
15 responsibility. I will grant the government's motion to
16 take off the third point. For a total offense level of --
17 well, it would be 44, but the maximum is 43, so it is 43.

18 He has zero criminal history points, and category
19 one. Guideline sentencing range is therefore life. The
20 guidelines, of course, are advisory only.

21 I have received some letters in this case. Received
22 this morning a letter from Mr. Falte himself, which
23 expresses his regret over the offense and the fact that he
24 understands how he harmed the child in this case.

25 I have got a letter from Janet Falte.

1 Ms Grady, is that his grandmother or great
2 grandmother?

3 MS GRADY: It is his father's ex-stepmother. His
4 father's new wife, after his father's mother died. Or
5 father's wife.

6 THE COURT: So it is his step grandmother then?

7 MS GRADY: Essentially, yes.

8 THE COURT: Anyhow, from his grandmother, Janet
9 Falte.

10 From his mother and his father. From his sisters, or
11 sister, rather, his -- essentially those letters from
12 family members discuss the fact that he is kind and
13 helpful to others. And that they still love him. And
14 reiterates some of the issues that he has had in his life
15 in terms of depression and difficulties dealing with that
16 in school and so forth.

17 I also have a letter from his doctor at Vanderbilt
18 dealing with his Crohn's disease, which is obviously real
19 and requires continued treatment.

20 I also have received statements from the mother and
21 grandmother of the victim in this case, the child. And
22 those letters discuss the horrible effect of Mr. Falte's
23 and Mr. Faulkner's actions on the child, which I don't
24 think means -- Mr. Falte doesn't deny that.

25 Okay. Let's see. Do you have any witnesses?

Falte - direct

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1 MS ABER: No, Your Honor.

2 THE COURT: Okay.

3 Do you have any witnesses?

4 MS GRADY: I just have one, Your Honor.

5 THE COURT: All right.

6 Let's hear the witness.

7 MS GRADY: Charles Falte, please.

8 CHARLES FALTE

9 WAS SWORN AND TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MS GRADY:

12 THE COURT: All right.

13 Good morning, Mr. Falte. Thank you for coming, sir.

14 Q Please introduce yourself to The Court.

15 A Charles Falte. I am Patrick's father.

16 Q You go by?

17 A Pete.

18 Q Pete. Did you write a letter in this case?

19 A I did, yes.

20 Q Okay. And you are, obviously, you call him Patrick.

21 What is his nickname?

22 A Ding.

23 Q Ding. You obviously traveled from somewhere today.

24 Where did you come from?

25 A Nashville, Tennessee. Franklin. Just south of

1 Nashville.

2 Q Who else came with you?

3 A My wife, Patricia.

4 Q What about your daughter, Christa?

5 A Due to work, she had to remain where she is at in
6 Nashville.

7 Q Okay. Did she want to come today?

8 A She -- it is tough for her. She works in child care.
9 So it is hard for her to be here, but she still loves her
10 brother.

11 Q Okay.

12 Why did you come here today?

13 A To support my son and help in any way with his
14 sentencing, kind of show the positive side that we have
15 seen in our son. We have not seen this portion of him.

16 Q Tell The Court a little bit about the positive sides
17 of your son.

18 A We know him to be loving and helpful. He has always,
19 you know, been more of an introvert. We have known that.
20 But we have known the loving side. He has been very
21 helpful to neighbors, ourselves, we go to Second Harvest
22 Food Bank once every year or two to, you know, community
23 volunteer service. Things of that nature.

24 Q You all are involved in the church, are you not?

25 A We are involved, yes.

1 Q Okay.

2 What are you asking The Court to do for your son?

3 Obviously, he has to sentence him.

4 A I understand the pain that is going on from the other
5 side. And, you know, that is where I would be if I were
6 in their position.

7 I just hope today is not about vengeance or anything
8 like that. It is the legal system, and I hope they see
9 that my son is worthy of a second opportunity at some
10 point in his life.

11 Q Okay. Thank you.

12 Answer -- anything else you want to tell The Judge
13 today that you didn't write in the letter?

14 A No. That is it.

15 THE COURT: All right.

16 MS GRADY: Answer any questions the Judge or
17 government has.

18 MS ABER: No questions, Your Honor.

19 THE COURT: Mr. Falte, thank you very much for
20 coming.

21 (Witness stood aside)

22 Let me say to -- you can go back in the audience.

23 Did you identify the Falte family members who are
24 here?

25 MS GRADY: Yes, sir, Judge. I apologize.

1 The woman who stands up, that his mother, Patricia
2 Falte. And next to them are the Faulkners, who traveled
3 from Canada today.

4 THE COURT: All right.

5 Well, thank you both for coming, to the Faltes.

6 MS GRADY: Defense has no further witnesses, Your
7 Honor.

8 THE COURT: Okay.

9 Any other evidence from either side?

10 MS ABER: No, Your Honor.

11 MS GRADY: Nothing from defense.

12 THE COURT: Let me say to the Faltes, thank you.
13 This is, obviously, not a good day in your life, or in
14 Ding's life. But thank you very much for coming. It
15 means a lot to him to have you here. So thank you for
16 coming.

17 All right. So let's hear from the government then on
18 the request for variance, the 3553(a) factors, and the
19 appropriate sentence in this case.

20 Why don't you tell me who is here from the family of
21 the victim, or supporting the victim.

22 MS ABER: Yes, Your Honor. The two individuals in
23 the second row next to Mrs. Ulmet are relatives of
24 Mr. Faulkner. Other than that, we have investigative
25 agent and other folks here to observe.

1 THE COURT: Okay.

2 So the mother and the grandmother are not here?

3 MS ABER: That's correct, Your Honor.

4 THE COURT: Okay.

5 MS ABER: They didn't want to be here at the end

6 because this is such a --

7 THE COURT: I understand.

8 MS ABER: Okay.

9 So for the reasons outlined in our sentencing
10 position, and in our sealed pleadings, a sentence of 50
11 years, which is just short of life imprisonment for a
12 27-year-old here, that meets the factors of 18 USC 3553
13 (a). The variant sentence of 30 years, as Mr. Falte
14 proposes is insufficient to achieve the objectives of the
15 statute. And I don't mean to be beat a dead horse, Your
16 Honor, but against the defendant's regret, which is
17 apparent in his letter, and his family, the horrible
18 situation this is, the obvious good side of Mr. Falte, we
19 have the nature and circumstances of this offense, which
20 is truly horrific.

21 Traveling repeatedly across state lines to rape a
22 toddler is unconscionable, but they also -- when I say
23 "they" I mean both Mr. Falte and Mr. Faulkner -- spent
24 time in this district grooming this child. And, in fact,
25 Mr. Falte's letter alludes to that, buying the child toys,

1 buying her ice cream to make her comfortable. And they
2 photographed the abuse. I have seen those pictures and
3 videos, and it is horrific. And they put those on the web
4 site for other pedophiles to watch. In honest, truth,
5 Your Honor, those photos will exist in perpetuity on the
6 internet for other pedophiles to watch. That kind of
7 thought is really, I think what probably is the nub of how
8 offensive this is to the mother and grandmother, setting
9 aside the physical pain that their daughter and grand
10 daughter endured. And I won't read it, obviously, but the
11 mother has a very interesting statement at the end of her
12 victim impact statement about how she is had images in her
13 head of what I was told you, Mr. Falte, and your friend,
14 did to her fragile little body. As her mother my heart
15 breaks. The evil you brought into my child's life is in
16 indescribable. That is why she asks this court to
17 sentence Mr. Falte to life imprisonment.

18 A thirty year sentence does not, does not serve the
19 remaining factors of 3553(a). It doesn't reflect the
20 seriousness of the offense. It doesn't promote respect
21 for the law or promote just punishment. The cruel
22 physical abuse of the youngest and most vulnerable is a
23 among the most serious crimes in the United States Code.
24 And that, Your Honor, is why thirty years is the mandatory
25 minimum, and the guidelines are life.

1 In fact, upon preparing for this sentencing yesterday
2 I was thinking about if I polled a hundred people on Broad
3 Street I am guessing the vast majority would say life
4 imprisonment, or even worse, would be an appropriate
5 sentence for this crime.

6 A thirty year sentence is not about vengeance, it is
7 about -- excuse me, fifty year sentence is not about
8 vengeance, a thirty year sentence will not adequately
9 protect the public from further crimes of the defendant.

10 Ms Grady has provided a very interesting
11 psychological report to The Court.

12 THE COURT: I have read it.

13 MS ABER: And having prosecuted many child
14 pornography cases, I am interested in what a psychologist
15 would say about someone like Mr. Falte who has these kinds
16 of clear proclivities towards this activity. But at the
17 heart of the psychologist's opinion is that Mr. Falte at
18 best would be most similar to individuals who are average
19 risk of re-offense upon release. So even assuming that is
20 true, and even assuming Mr. Falte is amenable to the sort
21 of sex offender treatment the psychologist proposes, it
22 strikes me as an unacceptable risk to the community.

23 THE COURT: I think what she says is that a very low
24 risk of reoffending, and among the potentially offenders
25 he is sort of in the middle rank. So, it is not like it

1 is a high risk, but virtually any risk is unacceptable.

2 MS ABER: Exactly. I mean who wants their child to
3 be the part of the low risk of recidivism? In fact, that
4 is borne out by Mr. Falte's communications that are listed
5 in the PSR with another pedophile reflecting that he might
6 like to go out and spot kids or adopt or foster children.
7 I mean that kind of risk is not someone we can release in
8 their late or early 50s, which is what Mr. Falte proposes.
9 30 year sentence would have him released at approximately
10 53, with good behavior. But a 50 year sentence assumed
11 that he will be released at almost 70 years old. And with
12 inevitable sex offender monitoring, supervised release, he
13 would presumably provide -- would provide sufficient
14 assurance that he will not harm another child.

15 THE COURT: Well, I can assure you that as people
16 approach their 70s they still have active sexual lives and
17 desires and so forth.

18 MS ABER: I'm not going to comment on that, Your
19 Honor. But I will add that I think at that point in his
20 life there are sufficient ways, and who knows what sex
21 offender monitoring would be like in the year 2087.

22 THE COURT: It would be a different world then. You
23 know, one of the things that just troubles me about this
24 case is that right now the world of treatment for people
25 like Mr. Falte is pretty primitive. But who knows what it

1 is going to be in 30 years or so. Maybe there will be
2 something that will help him in dramatically different
3 ways than what we have now. But there is no guarantee of
4 that, is there? Not even, doesn't even seem to be a lot
5 of work going on in that area. But, go ahead.

6 MS ABER: Well, the bottom line is, Your Honor, I
7 think we have to sentence Mr. Falte on the information we
8 have now before us. That is, that he is a public safety
9 risk, that we need to incapacitate him as long as
10 possible. But based on the information provided in our
11 sealed pleadings he does deserve some hope of ultimate
12 release. That is why a 50 year sentence is most
13 appropriate and meets the factors of 3553(a).

14 Thank you.

15 THE COURT: Thank you very much.

16 Ms Grady.

17 MS GRADY: Good morning, Your Honor.

18 THE COURT: Good morning.

19 MS GRADY: Some of the direct responses to The
20 Court's concerns and the government's arguments for me
21 would be that The Court is obviously concerned about one
22 of the factors, which is how to protect society. And
23 talking about Mr. Falte's being a low risk or an average
24 person in the low risk category, which is what the
25 evaluation turns out to be, to opine, Judge, in 30 years,

1 as you well realize, we don't know what the world is going
2 to be like. What we do know from the evaluation is that
3 Mr. Falte is amenable to treatment. The doctor found a
4 number of factors that showed that Mr. Falte is amenable
5 to treatment. He is sorry and feels horrible for his
6 actions. He has felt horrible for his thoughts and
7 attractions since a young age. He has had major
8 depression that has really never been treated. He has a
9 mental disorder. I mean this is DSM five disorder,
10 pedophilia. It is mental disorder that he has suffered,
11 and in combination of the major depression, neither of
12 which he has ever received any kind of counseling for.

13 So I think that there is a great deal of hope in the
14 future, in 20 years, 30 years. There has to be. Society
15 has got to figure out a way to be able to treat these
16 folks. And be able to let those out who have the ability
17 to show that they can have those attractions and not act
18 on them.

19 There are many folks who have those attractions and
20 are appropriately controlled by supervision.

21 You know, Ms Aber's argument assumes that in 30 years
22 he would just be out on the street. He is going to have
23 so many controls on his life that will provide further
24 punishment for what is going on with him he. Will not
25 have an access to the internet, I can't imagine, whatever

1 it will look like.

2 THE COURT: Well, that is if we think that medicine
3 is going to change in between now and then. God knows
4 what will happen to the internet. It may not even exist.
5 It might be something different.

6 MS GRADY: That' is true, but the point is, that I
7 think he will be adequately controlled. I think the
8 risks, that the evaluation and the combination of what we
9 know in reality, I think the risk will be minimized. I
10 don't think that an additional 20 years suggests
11 warehousing him put him away is really the right thing to
12 do in this case.

13 Your Honor well knows that you have to impose a
14 sentence that is sufficient but not greater than
15 necessary. When you look at -- I have never seen the life
16 sentence study that was done by the Sentencing Guidelines.

17 What I found to be most interesting is that they
18 consider, the Sentencing Guidelines folks, United States
19 Sentencing Commission, believes that of the -- a de facto
20 life sentence is 39 point one years. Let's round it up to
21 40. That is what they say is a life sentence. If the --
22 de facto meaning, essentially it is a life sentence. And
23 there are a number of folks, not a great deal, but a small
24 number of folks who are serving that kind of sentence. If
25 the government is genuine in its request he receive

1 something less than a life sentence, I think Your Honor
2 need to think about a sentence between 30 and 40 years
3 because a de facto life sentence is 39 point one years.

4 He should be commended --

5 THE COURT: Well, not a de facto life sentence for
6 him. What is, he 26?

7 MS GRADY: Right, but --

8 THE COURT: He is going to live to be more than 66 if
9 he lives out -- you take a look at the actuarial tables in
10 the Virginia code --

11 MS GRADY: I don't know --

12 THE COURT: -- it is 80 something.

13 MS GRADY: For a person living in society. I'm not
14 sure that is a person living in a high-risk community. In
15 a high-risk community for not only his Crohn's disease.
16 If that goes bad in any form or fashion Mr. Falte will be
17 in serious trouble if not dead. The Bureau of Prisons has
18 proven itself to be wholly inadequate medical facility to
19 treat the, to timely treat serious conditions. But they
20 can treat diabetes, or give insulin. Do things like that.
21 Even give dialysis. But for somebody who will need at
22 some point immediate medical care for Crohn's, which is
23 painful, you know, the likelihood that this will erupt in
24 a highly stressful situation is great. So not only we
25 have to consider what his life would be with Crohn's and

1 how successful that is, but the evaluation indicated that
2 he would be more particularly vulnerable because he is a
3 minority, and he has the problems that he is a sex
4 offender. He is a sex offender that is not a strapping
5 six-foot, 250 pounds. He is skinny. He is not going to
6 be able to defend himself. He is somebody that will
7 surely be a victim. So I don't think how long he is going
8 to live, but I think certainly a realistic sentence would
9 be something in the area of 30 to 40 years, because that,
10 I think, is what would be a de facto to life for him. It
11 would be a life sentence for him.

12 THE COURT: Okay.

13 MS GRADY: The reason I have asked for 30 years is
14 that I think that The Court needs to consider the other
15 factors. Obviously there is protect society. There is
16 sufficient punishment. And, you know, he did what he
17 needed to do after his arrest. He confessed. He pled to
18 this charge. He willingly waited and waived a number of
19 speedy trial rights to figure out the right kind of
20 charge, the government. And we were working on that. He
21 did what he needed to do, some of the things mentioned in
22 the supplemental government's sentencing position that was
23 of great value. And the government recognizes that. So I
24 think The Court can recognize that, too, and place your
25 own value on what he did.

1 In terms of what he did for, in comparison to the
2 other folks, he is not a Mr. Hicks who served up his
3 daughter. He is not Mr. Faulkner, who apparently has
4 other touching offenses. He is somebody that should be
5 treated differently than the other two individuals in this
6 case, and that is why I think we could start at the
7 mandatory minimum.

8 Obviously, Congress found that to be a serious
9 sentence. When I wrote in the, my position paper about
10 which offenses deserved, or by the guidelines, said
11 mandatory life, this is not one of them. Congress made
12 specific determinations on what should receive a life
13 sentence, and this is not one of them.

14 Judge, his parents came here. It is obvious from
15 their letters, and obviously from the letter from the
16 sister, they were very surprised at what was going on in
17 his life. They had no idea. To think that that stems
18 from Mr. Falte's isolation that he felt as a child. He
19 wanted to die and wanted to die at age eight. I think
20 that is depression. But then you get to when he tries to
21 kill himself at 18 or 19 because he felt guilty about the
22 thoughts that he had in his head. This is not somebody
23 who gleefully walks down the street and happily, you know,
24 offends children. He is somebody with a mental disorder
25 and is unhappy, has always been unhappy with his thoughts.

1 So I think The Court needs to take that into consideration
2 as well.

3 The interesting thing that is, noteworthy thing, I
4 suppose, is that he suffered his own trauma and he is here
5 today not blaming that trauma on turning his life around
6 and making him want to do something horrible to children.
7 In fact, his family didn't know about it until today. He
8 kept that secret for that long.

9 I spoke to the parents about it before court. So I
10 think he is somebody who has taken responsibility and who
11 willingly wants help for what he has, which society has
12 never offered a cure. He is somebody that joined the peer
13 support group to try to deal with his feelings. Nobody in
14 the society, the open society, is willing to counsel those
15 folks or help those folks. It is only through the dark
16 net, or through the internet that these folks are able to
17 try to deal with their attractions.

18 Is there some game playing, or some, you know, sort
19 of bragging or whatever that may have taken place in the
20 chat, yes; but Mr. Falte never, no proof. Mr. Falte has
21 never offended prior to now, prior to last October.

22 So, he wants a cure. He is amenable, and I think he
23 will get that if Your Honor were to sentence him to 30
24 years. I think 50 years, the extra 20 is just a
25 warehouse. I don't think in this day and age we need to

1 warehouse somebody who has potential. Somebody who has no
2 previous criminal history, who has a college degree, who
3 has some serious skills in the internet technology.

4 So I would ask The Court to give him some hope, to
5 give him a 30 year sentence that would provide a sentence
6 that is sufficient but not greater than necessary to
7 provide appropriate punishment.

8 I would ask that Your Honor place in the designation,
9 a place in the judgment he be designated to a medical
10 facility. I have great fear that he will be designated to
11 a lower level and then just deal with his problem if it
12 arises. And the reason I added the information from the
13 2015 audit is that there is unconscionable delays in the
14 Bureau of Prisons just from a numbers perspective. If his
15 mental condition deteriorates, he may well die in prison,
16 and that, maybe that accomplishes something, but I think
17 that our system, our society, should do better than that.
18 So I ask that he be placed in a facility, or recommend
19 that he be placed in a facility. His parents were going
20 to move to Florida, but I think the recent events sort of
21 frightened them away, so I -- the hurricane --

22 THE COURT: Done what?

23 MS GRADY: They were going to move to Florida, so the
24 hurricane and all those events --

25 THE COURT: Oh, those events, not these events.

1 MS GRADY: No, no.

2 Those events have sort of scared them away from that,
3 that possibility. So I had asked that he be housed in a
4 place closer to Florida, but his official residence under
5 the presentence report --

6 THE COURT: Some place close to Nashville?

7 MS GRADY: Yes, sir. That is where -- that is where
8 his official address is in the presentence report.

9 THE COURT: All right. I will suggest they send him
10 to a prison with a medical facility somewhere that is in
11 driving distance of Nashville.

12 MS GRADY: Thank you, Judge.

13 Judge, so I think the last thing I will say, Your
14 Honor, is this not about vengeance, this is about justice.
15 And sometimes justice needs to be tempered with mercy,
16 Judge. And I ask that you sentence him to 30 years.

17 THE COURT: All right.

18 Do you want to respond to that, Ms Aber.

19 MS ABER: No, Your Honor.

20 THE COURT: All right.

21 Mr. Falte, do you want to make a statement to The
22 Court? I have read your letter. If you would like to get
23 up and make a statement, please come up to the podium here
24 and I will be happy to hear whatever you have to say.

25 Lift up the microphone for him, will you? Thank you.

1 THE DEFENDANT: I just, you know, I just want to go
2 over what I said in my letter. I do apologize. It is --
3 when I was doing what I was doing, you know, back then, I
4 didn't see it as awful, otherwise I would have never. The
5 last thing on earth that I would ever want to do is hurt
6 anybody. So, I mean, I'm here today, yes I did. You know
7 it destroys me. So, I just want to apologize to you, to
8 the family, and the girl I hurt. Just everybody.

9 THE COURT: Okay? Anything else.

10 THE DEFENDANT: That is all, Your Honor.

11 THE COURT: Thank you very much, Mr. Falte.

12 Let's take a brief recess was.

13 (A recess was taken)

14 THE COURT: Okay.

15 Well, I will now discuss the 3553(a) factors and the
16 sentence in this case.

17 First, with respect to the first factor I am to
18 consider is the nature and circumstances of the offense.
19 It is just terrible. It is horrible. This is a gentleman
20 who was involved in the dark web. He was on Thor. He was
21 involved in a web site that traded child porn. He was
22 involved in chat rooms where they talked about how to get
23 kids to have sex with, not just kids, but infants. He was
24 able to arrange through the internet the ability to find
25 someone who would essentially lend his daughter to him for

1 sexual purposes. He met with -- that was with Mr. Dix in
2 northern Virginia. He traveled from Tennessee to Virginia
3 to meet the little girl with Mr. Dix several times. He
4 met the child. Got her toys, got her food, ice cream, and
5 so forth. They then went and had sex with her. They made
6 videos of themselves having sex with the child. Mr. Falte
7 touched her genitals. He annually penetrated her. He
8 masturbated and ejaculated on her. You know, when you
9 look at kids that age they are just so trusting, and they
10 are trusting that adults will help them through life.
11 And, you know, they are not able to distinguish one adult
12 from another. And they assume that it is always going to
13 do the right thing. I don't know whether this little
14 girl -- I don't know what she will remember of this when
15 she gets older. I hope it is nothing of it. But I doubt
16 that that will be the case.

17 All right. The characteristics of the defendant is
18 the next factor I am to consider.

19 He has, much to his credit, no criminal history. On
20 a personal level he had a very nice upbringing with the
21 Faltes. He had a caring family. He had difficulties with
22 school, but much to his credit he worked his way through
23 those. He was shy and withdrawn, and, you know, you never
24 know what is going on with somebody else. And, obviously,
25 where do you draw the line in making a judgment about

1 somebody who is shy and withdrawn versus somebody who is
2 depressed?

3 Now, the Faltes did absolutely a very nice job with
4 getting Ding through life and out into the world doing
5 well not recognizing that there was another side to him.
6 And, you know, we all have sides we don't share with other
7 people. And that is what we had here.

8 The next factor is the personal history. I have
9 talked about that. He has no dependents, no children, not
10 married. Physically, he has got Crohn's disease, which is
11 a very bad problem, and as I said, to Ms Grady, my order
12 in this case will direct that he be placed in a facility
13 that has first-rate medical care, or the best medical care
14 that is available in the Bureau of Prisons.

15 He does have mental health issues, obviously;
16 depression, pedophilia. You know he went through life
17 with sort of a lack of affect. And that, I remember when
18 he came in to make the guilty plea, I noticed that about
19 him as well.

20 To his credit, he does not have a substance abuse
21 problem. He is a college grad. He has computer skills.
22 You know, if I had to -- he had has been steadily employed
23 if -- I had to sum him up, he obviously has some good
24 sides, but there is a horrible and thoughtless part of his
25 character that manifests itself in the conduct that is

1 unacceptable and awful.

2 The next factor is the need for the sentence to a
3 reflect the seriousness of the offense. If he killed this
4 girl, she wouldn't live in torture the rest of her life.
5 But he didn't, and so she is the one who has a life
6 sentence in this case.

7 Respect for the law. Well, honestly there is
8 absolutely none shown by Mr. Falte here. He lived and
9 worked -- he lived and worked in the evil part of the web.
10 Traveled all around the country on numerous occasions, all
11 to for the purpose of victimizing this child.

12 The next factor is the need to provide just
13 punishment. Well, the guidelines make it clear and the
14 sentencing statute makes it clear by establishing a
15 mandatory minimum that severe punishment is called for
16 here.

17 The next factor is need to afford adequate
18 deterrence. Well, you know deterrence is an interesting
19 topic. Its not too clear that anything that I do to
20 criminals deters other criminals from committing crimes.
21 That is certainly absolutely clear to me in drug cases and
22 violent cases, that is true. The only cases where I think
23 there is much of a chance of general deterrence is white
24 collar crimes. I hope that what happens to Mr. Falte
25 today is a deterrent to others who have similar urges to

1 him. I am sure that it will be an adequate deterrence to
2 him to ever commit this again, but he is going to be out
3 of circulation for a long time.

4 The next factor is the need for the sentence to
5 protect the public from further crimes of the defendant.

6 Well, I can't -- of all of the 3553 factors, the
7 nature and circumstances of the offense and the need to
8 protect the public are clearly the most important. It is
9 just unconscionable to put Mr. Falte in a place to do
10 anything like this again.

11 You know, the likelihood of recidivism in three to
12 five years is, I don't know, something like three to five
13 percent. Well, you know, that means one out of every 20
14 people does something. That is pretty dangerous.

15 The next factor is the need to give him education,
16 vocational training, medical care, and other treatment. I
17 am going to take care of the medical care for his Crohn's,
18 and I don't think the other factors play into this very
19 much.

20 The kinds of sentences available are a maximum of
21 life, mandatory minimum of 30 years. There are all kinds
22 of fines and assessments. I will find that he is unable
23 to pay the \$5,000 assessment for sex crimes. And that he
24 is unable to pay a fine at all.

25 I am to take into into account the guidelines, which

1 are life.

2 To avoid sentencing disparities among similarly
3 situated defendants. Well, anybody who gets convicted
4 under this statute is going away for a long time.

5 Restitution is obviously a factor here, and I will
6 enter an order -- I am not sure -- tell me this, Ms Aber.
7 How does it work? I would assume that at some stage in
8 the future the child will need some sort of treatment.
9 How do I turn that into an order that Mr. Falte is
10 supposed to pay without any -- without a number? You can
11 address it from there. That is fine. Or walk up here,
12 whatever you want.

13 MS ABER: I am clearly no expert, but I believe
14 restitution would have to be a particular number
15 identified today and put in the judgment. As of today,
16 the government consulted with the mother and grandmother.
17 They do not want to seek restitution. They anticipate if
18 future services are needed they will obtain it through the
19 community. That is in part based on Mr. Falte's
20 indigence. So I don't believe restitution is needed today
21 or in the future, that is not legally possible, and the
22 government is not requesting it.

23 THE COURT: Okay. No restitution.

24 Okay. All right.

25 There are two motions for variance, one by the

1 government to go down to 50 years for his cooperation; and
2 one to by the defendant to go down to 30 years. Or 40
3 years, depending on how you look at the case.

4 Forty seems to be what they were arguing today at
5 some stage. It is 30 at others.

6 I think the other factors in the case outweigh the
7 motion for variance, and that motion will be denied.

8 Mr. Falte, please stand up.

9 Mr. Falte, pursuant to the factors set forth in 18 US
10 code section 3553(a) and the Sentencing Reform Act of
11 1984, and having considered the Federal Sentencing
12 Guidelines as advisory, it is the judgment of The Court
13 that you are hereby committed to the custody of the US
14 Bureau of Prisons to be imprisoned for a term of life.
15 This sentence is sufficient but not does not exceed the
16 amount of time necessary to achieve the goals of
17 sentencing as set forth in 18 U.S. code section 3553. It
18 reflects the seriousness of the offense, provides just
19 punishment, affords adequate deterrence to criminal
20 conduct, and protects the public from further crimes that
21 you may commit. I recommend that you participate in any
22 psychological programs offered by the Bureau of Prisons,
23 and that you be imprisoned somewhere near Nashville, as
24 close as possible to that. And that you be in a facility
25 that has very, very strong medical care.

1 If you should ever get out of imprisonment you will
2 be placed on supervised release for a term of life. And
3 if you get out of prison you have to report to the Bureau
4 of Prisons. If can't commit federal, state, or local
5 crimes, possess a controlled substance, or possess a
6 firearm or destructive device. You will comply with the
7 standard conditions of supervised release. You will
8 participate in any psychological programs deemed necessary
9 by the probation office with cost to be paid by the
10 government.

11 You will not be put on a plethysmograph, which seems
12 barbaric to me. I have considered your net worth and
13 liquid assets, your life style and financial needs, your
14 earning potential and the dependents relying on your
15 support. You are not capable of paying a fine. No fine
16 will be imposed. You have to pay a special assessment in
17 the amount of a hundred dollars, which is due immediately.

18 Was there a forfeiture?

19 MS ABER: Not here, Your Honor.

20 THE COURT: Okay.

21 Mr. Falte, you have 14 days to appeal this sentence
22 to the U.S. Court of Appeals for the Fourth Circuit. You
23 do that by filing a notice of appeal, which Ms Grady will
24 do if you ask her to do it. You don't have to pay a fee.
25 You can do it for free, and they will appoint a lawyer to

1 handle your appeal. If you can't ahold of Ms Grady, send
2 a letter to the clerk of this court saying you want to
3 appeal.

4 Mr. Falte, this is -- I have wrestled with this case
5 since the first day I met you. And it just makes me sick.
6 The whole thing is sad for everybody involved, for you,
7 your parents, for the victims, for the lawyers.

8 I don't know what your life is going to be like going
9 forward from here. You going to find the ability to put
10 one step in front of the other as you go through the rest
11 of your life. You are going to be in prison and going to
12 be there with a lot of people who don't have the
13 intelligence and education and skills that you have.

14 And I hope that you will find it within yourself at
15 some stage to try to help those people to move on, to help
16 them find meaning to their lives so that they can at the
17 end of their sentences move on to a better life. I hope
18 you can find a way to be a servant to others while you are
19 in prison.

20 I have arranged with the Marshals for you to be able
21 to have a few moments to talk with your parents here in
22 the courtroom before you leave.

23 God bless you.

24 Let's recess court.

25 HEARING ADJOURNED

1 THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT.

2

3 GILBERT FRANK HALASZ, RMR

4 OFFICIAL COURT REPORTER

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